

**Statement of Terese M. Manning
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Committee on Transportation and Infrastructure
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Good morning Mr. Chairman and Members of the Subcommittee. My name is Terry Manning, and I am a Senior Planner and the Brownfields Coordinator with the South Florida Regional Planning Council, headquartered in Hollywood, Florida. I am honored to be here today to discuss the Brownfield Program of the U.S. Environmental Protection Agency, how we have been able to utilize the program, the successes of the program, and suggestions for the future.

Background

Brownfields redevelopment is a voluntary redevelopment initiative that many local governments are using as a tool to assist in the redevelopment of actual or perceived environmentally contaminated properties. Brownfields redevelopment activities can cover a broad range of activities, including environmental assessment and cleanup, public outreach and job training. In the Southeast Florida Counties of Miami-Dade, Broward and Palm Beach, the Eastward Ho! Brownfields Partnership (the Partnership) was created in 1997 to address brownfields issues. It is an approach that is being undertaken to combine federal, state and local programs to further brownfields redevelopment.

Because actual or perceived environmental contamination in urban infill sites, along with the risks and costs associated with addressing it, is a significant barrier to redevelopment in the Eastward Ho! corridor, the Partnership is targeting the remediation and sustainable reuse of contaminated and abandoned or underused sites as part of the larger Eastward Ho! effort. The Eastward Ho! initiative seeks to revitalize and improve the quality of life in Southeast Florida's historic, urban areas in an effort to lessen development pressure and urban sprawl in sensitive lands to the west which are needed in order to restore the Everglades ecosystem and ensure future regional water supplies.

Designated a National Brownfields Showcase Community in 1998, the Partnership is a regional collaboration around shared environmental restoration and urban revitalization interests in a fragmented administrative environment. It allows public, private and non-profit entities to bring their skills and resources to bear on the shared problem of brownfields in Southeast Florida's urban core, and thus add value to each other's ongoing work. The Partnership's members are committed to working individually and in tandem to achieve numerous accomplishments.

The Partnership has found that brownfields programs address only part of the urban revitalization/redevelopment puzzle, and the programs are not intended to address all

redevelopment needs and issues. We have found that obstacles to brownfields redevelopment include:

- The lack of adequate funding for cleanup
- Concerns about environmental liability
- The need for environmental assessments of the properties
- Uncertainty over cleanup standards
- Inadequate or non-existent infrastructure system necessary to support redevelopment, including potable water, sanitary sewer, and storm water facilities
- Unfavorable neighborhood and market conditions
- Land assembly issues
- Reluctance to invest in distressed communities due to concerns with socio-economic conditions
- The time and effort needed to address environmental and other issues.

To address these concerns and to assist in brownfields redevelopment efforts, funding from the EPA Brownfields Program has been widely used throughout Southeast Florida. Funds under this program have been used to assess and clean up brownfields, such as abandoned or under-utilized warehouses, gas stations, salvage yards, vacant lots, contaminated properties, and other eyesores that are found throughout the region. These properties cause blight to neighborhoods, inhibit economic development, pose risks to public health and the environment, and erode the tax base of communities.

The following is brief summary of the U.S. Environmental Protection Agency (EPA) funded projects in Southeast Florida:

- Brownfields Assessment Projects in Miami-Dade County, the Cities of Fort Lauderdale, Miami, Opa-Locka, and Lake Worth; the Miami Model City Community Revitalization District Trust; the South Florida and Treasure Coast Regional Planning Councils; and for lands under the jurisdiction of the Seminole Tribe of Florida.
- The South Florida Regional Planning Council and the Eastward Ho! Brownfields Partnership received a \$2.2 million grant from the EPA to capitalize a Brownfields Cleanup Revolving Loan Fund that is being used to assist in the cleanup and reuse of brownfields sites in Southeast Florida. Loans totaling \$1.41 million dollars have been awarded under this program to date to two local businesses to assist in remediation activities.
- Cleanup grants to the Cities of Miami and Homestead and for the Miami Model City Community Revitalization District Trust.
- An EPA funded job training grant to Miami-Dade Community College and an U.S. Department of Health and Human Services job training grant to Clark University targeting two neighborhoods, one in Fort Lauderdale and one in Miami.
- Targeted Brownfield Assessment Projects (funded by EPA through the State of Florida Brownfields Program) in Miami-Dade County and the Cities of Opa-Locka, North Miami Beach, Deerfield Beach, West Palm Beach and Miami.

These EPA funded projects have resulted in the following for brownfields outcomes throughout the region:

- An investment of approximately \$1.3 million in State of Florida funding to assist in assessment and remediation activities.
- An investment of approximately \$10.4 million in local and regional government funding, to assist in assessment and remediation activities.
- An investment of approximately \$31 million in private and non-profit funding, to assist in assessment and remediation activities.
- Approximately 390 sites have received various levels of environmental assessment review. Approximately 75 sites need no further assessment and will not require remediation.
- Twenty sites have undergone remediation activities and are either undergoing redevelopment or will shortly undergo redevelopment. The redevelopment activities will create at a minimum 2,000 jobs and 600 very low to moderate income apartment units, townhouses, condo units, and single family homes.
- A total of 88 students have been trained under the job training programs. Approximately 95% of the students were employed at the end of their training, with most jobs in environmental cleanup related programs.
- Miami-Dade County and the Cities of West Palm Beach, Opa-Locka, Miami, Miramar, Pompano Beach, Hialeah, Lake Worth, Hallandale Beach, Homestead, Deerfield Beach, Dania Beach, Miami Beach and Lauderdale Lakes have designated 39 sites and areas, totaling approximately 49,450 acres, under the Florida Brownfields Program. This accounts for approximately 64% of the acreage designated in Florida as brownfields.
- Miami-Dade and Broward Counties have received delegation from the Florida Department of Environmental Protection to administer and implement the Florida Brownfields Program in their respective jurisdictions. This results in streamlining of the review and implementation of assessment and cleanup activities thus saving time and money.

The investment of non-EPA funding, the creation of jobs, the creation of new housing units, and the other accomplishments listed above would not be possible without the EPA Brownfields funding that has been received. The EPA funding has been utilized as “seed” money, allowing brownfields projects to go forward.

Specific examples of successful projects can be found attached to this testimony.

It should also be noted that a second key program in brownfields redevelopment in Southeast Florida is the Florida Brownfields Program. The Florida Brownfields Program is primarily implemented and administered by the Florida Department of Environmental Protection (DEP), which also receives an annual grant from the EPA for brownfields activities. The Florida Brownfields Program was created by the Florida Legislature in 1997 with adoption of the Brownfields Redevelopment Act, Chapter 97-277, Laws of Florida, which has been amended in recent years and was amended again this year to respond to needs in the State. The Program is intended to assist local governments with the remediation and sustainable reuse of contaminated, abandoned or underutilized sites with actual or perceived environmental contamination, a significant barrier to redevelopment. The Program is a voluntary program, and the legislation is an “enabling” statute for local governments to use in providing incentives. The DEP has been able to fund numerous assessment and cleanup activities with the EPA funding, with 80% of the funding annual funding being used for the assessment and cleanup activities.

Key objectives of The Florida Brownfields Program include:

1. Community economic enhancement through increased capital investment
2. An increased tax base and tax revenues
3. Job creation
4. Better utilization of community resources
5. An improved quality of life
6. Improving the environment

The EPA and State of Florida Programs are compatible and complement each other, further assisting us and other local governments throughout the State with brownfields activities. DEP and EPA have signed a Memorandum of Agreement recognizing Florida's Brownfields Redevelopment Program as a means to expedite the cleanup of polluted properties and return them to productive use. This agreement incorporates the requirements of the 2002 Federal Brownfields Law and recognizes that cleanups conducted under Florida's program may also satisfy the requirements of the federal Resource Conservation and Recovery Act. The agreement represents a commitment by both agencies to work cooperatively to achieve protective cleanups at Brownfield properties in Florida, while preserving federal enforcement authority. The agreement, in part, promotes the Federal "One Cleanup Program", facilitating assessment and cleanup of polluted properties under the most efficient state or federal cleanup authority, and assisting redevelopment and reuse.

The Need for Brownfields Authorization

The EPA established the federal brownfields program in 1995 as a demonstration program, which provided seed funding to several types of demonstration pilots across the country. The brownfields pilots helped demonstrate how federal funding for assessment and cleanup could leverage billions in private sector investment to help bring contaminated properties back into productive use. In 2002, Congress enacted the Small Business Liability Relief and Brownfields Revitalization Act, which provided the brownfields program with a Congressional mandate, new liability tools to promote reuse, and increased funding at a level of \$250 million per year.

While the EPA Brownfields Program has been a significant resource in Southeast Florida and as resulted in positive outcomes, much remains to be done. We have estimated that there are approximately 2,100 potential brownfields sites in Southeast Florida alone. These sites continue to blight neighborhoods, discourage new investment, and undermine economic progress. There is a continued need for the EPA Brownfields Program and for EPA Brownfields funding. Without this critical seed funding, sites will continue to remain idle, blighting neighborhoods and undermining local revitalization efforts. In addition, funding from non-federal sources may be lost.

There continues to be a major gap between the local brownfields needs and the funding and incentives that have been available from the federal government and other sources.

Potential Changes to the Federal Brownfields Revitalization Act of 2002

The results of the Federal Brownfields Revitalization Act of 2002 could be enhanced if certain shortcomings of that statute were improved, and if emerging new tools for brownfields revitalization can be catalyzed. The following is listing of suggested changes to the program based on our experience with the current EPA programs. Also included are brief comments on why the changes are needed. The listing below does not include all potential improvements that could be implemented, but the improvements that we feel are the most important.

1. Provide more flexibility in EPA's grants, including:

- Eliminate set-aside for petroleum sites.

It has been our experience that the majority of the brownfields sites in Southeast Florida are either petroleum sites or have petroleum issues. These are the sites we have the most difficulty in addressing.

- Allow funding to be used for reuse planning.

Completing an assessment only addresses what is currently on the site. It is the missing link between determining what the problem is and how to implement the cleanup activities. It will provide more certainty in cleanup activities and allow for costs to be determined.

- Allow state and federal Underground Storage Tank funds to be used on petroleum brownfields.

Again, it has been our experience that the majority of the brownfields sites in Southeast Florida are either petroleum sites or have petroleum issues. These are the sites we have the most difficulty in addressing. This will also allow more leveraging of state and federal resources.

- More flexible requirements to qualify as bonafide prospective purchaser for older sites, and thereby be eligible to receive funding.

It is difficult to demonstrate that a local government took reasonable steps prior to acquiring sites a prior to 2002, and many of these sites may have great need for clean-up funds.

2. Consider a single multi-purpose grant for a larger amount

Providing multi-purpose grants that can be used for assessment, cleanup, demolition, reuse planning, etc. could speed up the return of brownfields sites to productive use. It will allow local governments to address sites on a more efficient basis, allowing them funding to address all issues on a site at one time. This would also allow more flexibility in how a local government addresses brownfields.

An example of this is the funding awarded to the Miami Model City Community Revitalization District Trust. In separate years, with separate grant applications, they have had to apply first for an assessment grant and later for a cleanup grant. This has cost the Trust time and effort to undertake brownfields cleanup and redevelopment activities. If a multi-purpose grant for a larger amount was awarded, the Trust could undertake the assessment and cleanup activities more efficiently and with less cost.

3. Use a rolling grant application process

The need for brownfields funding is needed year-round, not just at one time of the year. Projects and opportunities could be lost because they can not wait for a once a year process. A rolling grants process will provide increased timeliness to meet needs of redevelopment process. The U.S. Department of Commerce, Economic Development Administration uses a rolling grant application process for funding infrastructure improvements that could be used as a model.

4. Increase overall funding

Currently, EPA only funds approximately one-third of all applications. Increased funding, or even funding at the levels in the current Act will produce more results and return more properties to productive use.

5. Simplify program requirements

- Provide multi-purpose grants that can be used for assessment, cleanup, demolition, reuse planning, etc.
- Streamline reporting requirements

As stated previously, a multi-purpose grant that can be used for multiple activities with one grant application can more efficient and provide more certainty to the brownfields redevelopment process.

Currently, the reporting requirements can be burdensome. We were required to report on a quarterly basis the status of 19 different key measures for our assessment grant and 7 different key measures for our revolving loan grant. Each quarterly report also requires a narrative on the status of the project. Also, detailed reports must be submitted for each site assessed or remediated. This takes a great deal of time, effort, and staff time (money).

6. Improve Brownfields Revolving Loan Funds (RLF), such as

- Increasing the amounts of capitalization grants
- Allow funds to be used to guarantee private loans
- Allow commingling and leveraging of funds from multiple sources
- Expedite or eliminate EPA approval of loans
- Reduce process time delay for loans

We have awarded two loans under our Brownfields Cleanup Revolving Loan Fund Program. It has been our experience that this is probably the most difficult of the EPA brownfields grants to administer. In order to successfully implement a RLF, a grantee needs to address environmental remediation issues, ensure the loans are financially feasible, ensure the funds will be repaid and ensure the funds will be properly used in the future. It is not cost efficient for local governments with small grants to implement such a program. As a coalition RLF grantee with four members of the coalition, we were able to “pool” resources to have a greater amount of capitalization now and in the future for the loan fund. The loan fund has a better chance of being more sustainable in the future and to produce results after the first round of loans. A larger capitalization amount allows for larger loans to be made, for the more difficult projects.

An example of this is our first loan, which was for a project called Malibu Bay. The cleanup costs on the project site were \$1.2 million. The developer was not able to get conventional financing for the total amount of the costs. Our loan was for \$800,000. By committing this amount of funding into the project, the Florida Housing Finance Corporation agreed to finance the remaining costs of cleanup as well as the financing the costs for the redevelopment of the site. This financing was approximately \$22 million. Up until this project, the Florida Housing Finance Corporation was reluctant to invest in brownfields projects. However, after we signed a joint funding with them and the developers, the project was able to go forward. The project was completed successfully in the Fall of 2005, with 264 very low and low income rental apartment built on the site, with all apartments rented. Loan repayments start later this year. In addition, the Florida Housing Finance Corporation has now approved 3 other housing projects in the region because of the project. All three projects are primarily being funded with their funding without additional federal funding.

The other improvements listed above would allow more flexibility in funding projects and provide for additional financing options. As we found, the EPA funding for our first loan provided the “seed” money necessary for other options to occur.

7. Technical Changes

- Remove administrative cost prohibition for grant recipients
- Eliminate EPA Quality Assurance/Quality Control requirements for sampling, etc. when duplicated under state requirements

The current Act prevents brownfield grant recipients from using a small portion of their grant to cover reasonable administrative costs necessary to carry out a project. This limitation makes it extremely difficult for local governments, community organizations and non-profit entities to effectively develop and implement their site assessment and cleanup programs and projects. All other EPA programs (Clean Water, Drinking Water, Superfund, RCRA, etc) and virtually all Federal grant programs allow a portion of grant funds to be allocated to cover reasonable administrative costs.

State agencies that receive brownfield funding from EPA are permitted to pay administrative costs with their grants. Only local governments and non-profit organizations are penalized

by this prohibition and only the Brownfields program is singled out for this treatment. As a result, many localities and organizations are unable to use brownfields funds.

EPA Quality Assurance/Quality Control requirements for sampling, etc. when adequate requirements are existing under state laws and regulations is a duplication of requirements. This increases costs and the time to complete projects. When adequate requirements are not available under State programs, this requirement should remain.

Conclusion

We thank you for your leadership in promoting brownfields redevelopment. Thank you also for considering our requests to enhance EPA's Brownfields Program. The Program is making a critical difference to communities in Southeast Florida, and enhancing this program would enable more communities to return blighted property to productive use.

This concludes my prepared remarks. I would gladly answer any questions you may have.

Attachment
Successful Brownfields Projects in Southeast Florida

The following is a brief summary of three projects in the Southeast Florida Region, noting funding sources, project partners, and project outcomes.

I. Wagner Square Project, City of Miami, FL

Project Funding:

- \$1 million BEDI grant for site remediation
- \$4 million in Section 108 loan funds for acquisition, remediation and construction
- Total project cost: \$34 million
- 4:1 ratio of private funding to public funding

Project Partners

- City of Miami
- Two private developers

Project Summary

- 2.95 acre parcel of land in Miami's Allapattah Community
- A mixed-use project
- Will provide 198 units of affordable and market rate for-sale housing
- Will create new commercial and retail space that will generate 195 new jobs

II. Martin Luther King Boulevard Mixed-Use Project, City of Pompano Beach, FL

Project Funding:

- \$500,000 BEDI grant
- \$2,833,000 Section 108 loan funds
- \$7,600,00 City funds
- \$500,000 HOME/SHIP funds
- \$2,000,000 Broward County Transit
- Total project cost: \$55 million

Project Partners

- City of Pompano Beach
- Broward County Mass Transit
- Local Initiatives Support Corporation
- Workforce One
- Redevco Consulting, Inc.

Project Summary

- 24 acre area along Martin Luther King Avenue in the City's Northwest Community Redevelopment Area
- A mixed-use project that will provide retail and office space, housing for the elderly and mixed-income housing
- The redevelopment along MLK Avenue is expected to create 238 new jobs
- Housing Units To Be Built:
 - 70 for sale townhouses
 - 250 apartments
 - 70 senior residential units
- Other Projects In The Area
 - A New Neighborhood Transit Center to be built by Broward County Mass Transit Division
 - A New Multi-Purpose Community Center to be built by the City of Pompano Beach

III. Malibu Bay Project, West Palm Beach, FL

Project Funding:

- BCRLF Loan from South Florida Regional Planning Council for \$800,000
- Developer's contribution of \$2,981,000
- Housing Finance Authority of Palm Beach County, Florida, Multifamily Housing Revenue Bonds, \$19,510,000
- Housing Finance Authority of Palm Beach County, Florida Taxable Multifamily Housing Revenue Bonds, \$500,000
- The bonds are being guaranteed by the Florida Housing Finance Corporation, acting through the Florida Affordable Housing Guarantee Program.

Project Partners

- Private developer
- City of West Palm Beach
- South Florida Regional Planning Council

Project Summary

- Approximately 13 acre site
- Site was formally a golf course
- Built 264 market rate multi-family apartments
- Contamination on the site: arsenic